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## VIA ECF

August 1, 2022

Hon. Paul G. Gardephe  
United States District Court  
Southern District of New York  
40 Foley Square, Room 2204  
New York, NY 10007

Re: *Certain Underwriters at Lloyd's London – Syndicate 1861, Subscribing to Policy No. ANV122398A, et al. v. Timothy Daileader, et al.*, No. 1:22-cv-02038-PGG (the “Declaratory Judgment Action”)

*Timothy Daileader v. Certain Underwriters at Lloyd's London – Syndicate 1861, Subscribing to Policy No. ANV122398A, et al.*, No. 1:22-cv-05408-PGG (the “Coverage Action”)

Dear Judge Gardephe:

We represent Timothy Daileader in the above-referenced actions, which involve a coverage dispute between Mr. Daileader and four D&O liability insurance companies that sold excess D&O insurance coverage to non-party Oaktree Medical Centre PC and related entities (the “Excess Insurance Companies”). Mr. Daileader is an individual insured under the policies.

The Excess Insurance Companies commenced the Declaratory Judgment Action in New York State Supreme Court seeking declaratory judgment that they have no coverage obligations to Mr. Daileader for a series of adversary proceedings against him asserted by the Chapter 7 Trustee of the bankruptcy estates of the Oaktree entities. Mr. Daileader removed the Declaratory Judgment Action to this Court based on bankruptcy and federal question jurisdiction. The Excess Insurance Companies have moved to remand. That motion is fully briefed and pending before Your Honor.

Mr. Daileader also filed the Coverage Action in the District of South Carolina, which was pending before U.S. District Judge Henry M. Herlong. The Excess Insurance Companies moved to dismiss, or in the alternative to stay or to transfer the Coverage Action. By order dated June 23, 2022, Judge Herlong transferred Mr. Daileader's Coverage Action to this Court.

On June 27, 2022, after Judge Herlong's transfer order, but before the Coverage Action was officially transferred and opened in this Court, I filed a letter on the docket of the Declaratory Judgment Action to alert the Court that the Coverage Action had been transferred and to request a telephone conference and supplemental briefing schedule in connection with Mr. Daileader's motion for a preliminary injunction pending in the Coverage Action.

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Pursuant to my discussion with and at the request of Chambers today, I am re-filing my June 27 letter on the docket of the Coverage Action. The June 27 letter is attached as Exhibit 1. In addition, for the sake of completeness, I also have attached a response letter, dated June 28, 2022, from the Excess Insurance Companies (Exhibit 2), and a reply letter, date June 30, 2022, that we filed on behalf of Mr. Daileader (Exhibit 3).

We thank Your Honor for your consideration.

Respectfully Submitted,

/s/ Raymond A. Mascia Jr.

Raymond A. Mascia Jr.

cc: Counsel of Record via ECF

**MEMO ENDORSED:**

Plaintiff will amend his preliminary injunction motion – previously filed in the District of South Carolina action (Dkt. No. 18) – to address Second Circuit authority, and refile any such motion by **August 17, 2022**. Defendants' opposition will be due by **August 31, 2022**. Any reply will be due by **September 7, 2022**. The Clerk of Court is directed to terminate the motion (Dkt. No. 18).

SO ORDERED.



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Paul G. Gardephe  
United States District Judge  
Dated: August 2, 2022